

REMARKS

Claims 14 to 28 were pending in this application. Claims 32 to 47 have been added. Claims 32 to 47 correspond to cancelled claims 1 to 13 and 29 to 31, as presented in the April 17, 2006 Amendment and Response. The amendments to the claims in the April 17, 2006 Amendment and Response were denied entry in the April 28, 2006 Advisory Action.

The Examiner withdrew the rejection of claims 14 to 28 under 35 U.S.C. § 112, first paragraph. However, the Examiner states in the March 15, 2007 Office Action that “applicant has not defined with clarity what is meant by the limitation of ‘at a zero point of the sinusoidal shape’ in the specification and only merely recites the limitation.” The meaning of “at a zero point of the sinusoidal shape” is clear to one of skill in the art, and Applicants’ specification clearly supports the above-mentioned limitation. In particular, support can be found in the drawings, specifically FIGS. 1 to 4, and in the specification on page 7, lines 17 to 23, which states that “the connection members 3 are connected to the cylindrical elements 2 [the annular elements] at the “0” [zero] points of the respective sinusoidal paths [the sinusoidal shape].”

The Examiner rejected claims 14 to 38 under 35 U.S.C. § 103 as being unpatentable over EP 0 875 215 A1 to Gashino et al. (“Gashino”) in view of U.S. Patent No. 6,758,859 to Dang et al. (“Dang”). The March 15, 2007 Office Action cites “Dang et al. 6,193,747”, but this appears to be a typographical error. U.S. Patent No. 6,173,747 B1 was issued to von Oepen.

Applicants respectfully traverse this rejection of the claims. The Examiner contends that it “would have been obvious to one having ordinary skill in the art at the time the invention was made to take the stent of Gashino and modify the strut to incorporate recesses for drug delivery as taught by Dang et al. . . .” Page four of the March 15, 2007 Office Action.

The pending claims require that “the geometry of the recesses being such that bending moments of inertia of the elements containing the recesses are not substantially reduced” (independent claims 14 and 32) or that “the geometry of the recesses being such that the characteristic of bending strength of the portions containing the recesses is not substantially reduced” (independent claims 45 and 47). As the Examiner states, Gashino does not describe a plurality of recesses and an active agent contained within the recesses. Dang does not remedy the deficiencies of Gashino because Dang does not teach or suggest that the geometry of the recesses is such that bending moments of inertia of the elements containing the recesses are not substantially reduced (independent claims 14 and 32) or that the geometry of the recesses is such that the characteristic of bending strength of the portions containing the recesses is not substantially reduced (independent claims 45 and 47). All of the pending claims recite such language or depend from claims that recite such language. Because the combination of Gashino and Dang does not teach or suggest these features, this combination does not suggest the subject matter of the pending claims.

In addition, the combination of Gashino and Dang does not teach or suggest the subject matter of claims 20 and 21. Claim 20 recites that “the stent has a longitudinal axis and wherein the hollowed sectional profile of the recesses has a rectangular profile, a longer dimension of the rectangular profile extending in a direction tangential to the longitudinal axis of the stent.” Claim 21 recites that “the stent has a longitudinal axis and wherein the hollowed sectional profile of the recesses has a rectangular profile, a longer dimension of the rectangular profile extending in a direction radial to the longitudinal axis of stent.” Neither Gashino nor Dang suggests the recesses recited in claims 20 and 21.

The combination of Gashino and Dang does not teach or suggest the subject matter of claim 23. Claim 23 recites that “the hollowed sectional profile of the

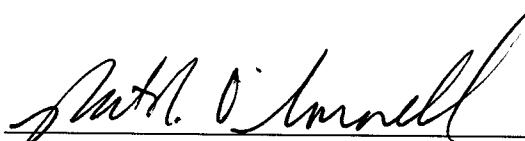
recesses has a substantially V-shaped profile.” Neither Gashino nor Dang suggests the recesses recited in claim 23. On page four of the March 15, 2007 Office Action, the Examiner states that “[a]lthough Dang et al. does not specify a V-shaped depot/recess Dang et al. does disclose that the depots/recesses can be made of a variety of shapes . . . and it is obvious that by varying the shape of the depot/recess are envisioned in order to modify the drug release rate and is deemed a design modification.” Applicants disagree. Applicants respectfully request that the Examiner cite a reference or provide an affidavit under 37 C.F.R. § 1.104(d)(2) to support this contention.

Accordingly, Applicants respectfully request that the Examiner withdraw this rejection of the claims.

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Respectfully submitted,

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